

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

August 29, 2002

IN RE:)	
)	
PETITION FOR APPROVAL OF THE)	DOCKET NO. 99-00377
ARBITRATED INTERCONNECTION)	
AGREEMENT BETWEEN ICG TELECOM)	
GROUP, INC. AND BELL SOUTH)	
TELECOMMUNICATIONS, INC.)	

**ORDER APPROVING
INTERCONNECTION AGREEMENT**

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 5, 2002 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the arbitrated interconnection agreement between BellSouth Telecommunications, Inc. ("BellSouth") and ICG Telecom Group, Inc. ("ICG").

Background:

On May 27, 1999, ICG filed its *Petition for Arbitration* with the Authority. In its petition, ICG requested that the Authority arbitrate an interconnection agreement between ICG and BellSouth. ICG filed the petition pursuant to Section 252(b) of the Federal Telecommunications Act of 1996 ("the Act"). See 47 U.S.C. § 252(b).

Under Sections 251 and 252 of the Act, incumbent local exchange carriers and competing local exchange carriers have a duty to negotiate in good faith the terms and conditions of agreements regarding facilities access, interconnection, resale of services, and other arrangements contemplated under these sections. If the parties are unable to reach a voluntary agreement, either party may petition the state commission for arbitration. *See id.* § 252(b)(1). A final interconnection agreement, whether negotiated or arbitrated, must be reviewed by the state commission in order to determine whether it complies with the Act. *See id.* § 252(e)(1).

The Directors,¹ sitting as Arbitrators under the Act, heard this arbitration on November 22, 1999 and publicly deliberated this matter immediately following the March 14, 2000 Authority Conference. Prior to the start of the deliberations, the parties informed the Arbitrators that all of the issues raised in the petition had been resolved except for two unresolved issues from negotiations of the parties.

On August 4, 2000, the Arbitrators entered a *Final Order of Arbitration*. On November 27, 2000, the Arbitrators' entered an Order² that addressed the parties' filings containing proposed contract language, and clarified the *Final Order of Arbitration*.

On June 25, 2002, ICG and BellSouth filed an executed interconnection agreement for approval with the Authority.

¹ The terms of the former Directors of the Authority, Chairman Sara Kyle, Director H. Lynn Greer, Jr., and Director Melvin J. Malone, expired on June 30, 2002. Chairman Sara Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. §65-1-204, a three member voting panel consisting of Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Ron Jones was randomly selected and assigned to this docket.

² *Clarification of Final Order of Arbitration*, Docket No. 99-00337 (November 27, 2000).

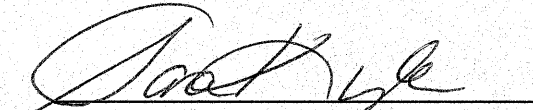
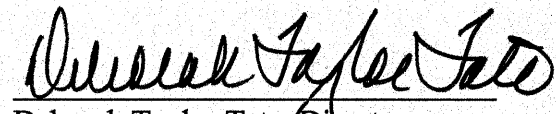
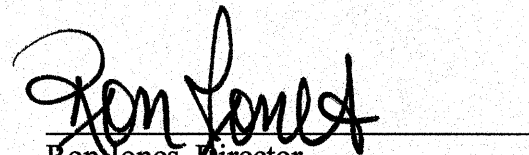
Findings and Conclusions:

Based upon the review of the agreement, the record in this matter, and the standards for review set forth in Sections 251 and 252 of the Act, the Directors voted unanimously to grant the agreement and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The agreement is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) Approval of the agreement is consistent with the Authority's *Final Order of Arbitration* entered on August 4, 2000, and Sections 251 and 252 of the Act.
- 5) No person or entity has sought to intervene in this docket.
- 6) The agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

T IS THEREFORE ORDERED THAT:

The Petition is granted, and the interconnection agreement between ICG Telecom Group, Inc. and BellSouth Telecommunications, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman
Deborah Taylor Tate, Director
Ron Jones, Director